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John Michael Earnshaw

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EXAMINER

YIP, WINNIE S

ART UNIT

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3636

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/583,363	Applicant(s) EARNSHAW, JOHN MICHAEL	
	Examiner Winnie Yip	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a first office action.

Drawings

1. The drawings are objected to because of following reasons:
 - a. Fig. 2, as in compliance with 37 CFR 1.84(h)(1), the exploded view, with the separated parts within the same figure, should be embraced by a bracket in order to show the relationship or order of assembly of various parts.
 - b. Fig. 3, two separate views are not labeled separately or properly (i.e., Fig. 3A and Fig 3B)
 - c. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features "the umbrella head, ... is upside-down with the runner uppermost and the clamp below the over" (claim 14), and "at least one umbrella head is of the "inverted" type" (claim 15) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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REMINDER: Specification may require revision to correspond to drawing changes, i.e., Fig. 3 should be changed to Fig. 3A, Fig. 6B; the specification, at the Brief Description of Drawings must likewise be changed.

Specification

2. The disclosure is objected to because of the following informalities: it does not contain any headings in compliance with 37 CFR 1.77(b).Appropriate correction is required.

Claim Objections

3. The claim 15 is objected to because it include text (i.e., “inverted”) being enclosed within parentheses. The claim language should not be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 6-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed

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invention.

The structural limitation of “a cam acting between the stem and at least one of the clamp portions” (claim 6) has not been defined in the specification.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 3-5 and 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 3-5 and 14-15: The cited limitation “at least two poles” (claim 3) and “at least two such umbrella heads” (claim 4), “at least two standing poles and two cantilever poles” (claim 5), “or least one of the heads” (claim 14), and “at least one umbrella head” (claim 15) do not consistent with the limitation of “a pole” and “a header” as previously defined in claims 1 or 2. These limitations failure to further limit the subject matter of a previous claim.

In claim 13, this not clear what does mean by “An umbrella assembly according to, connected together by clamps according to claim 6”. It is confusing what elements of the umbrella assembly are connected together by the clamps. Clarification is required.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Glatz et al. (US Patent No. 4,586,525).

Glatz et al. disclose: An umbrella assembly comprising: a substantially vertical pole (10), a cantilevered pole (4) pivotally clamped on the vertical pole, an umbrella head (82) (see Fig. 6) designed to be supported on a pole (4), the umbrella head having a shaft portion (80), ribs (90) extending outwardly from the shaft to support a cover, a runner (96) slidably mounted on the shaft portion and stretchers (94) extending radially from the said runner to the ribs, and a clamp (22) for releasably attaching the umbrella head to the pole, the umbrella head clamp (22) being disposed at the top of the shaft portion. The term "clamp" is given the significance: "device for holding things together" (see Oxford dictionary), therefore any means (like the hook(22)) which can hold together the umbrella head and the pole and which is suitable for releasably attaching the umbrella head to the pole will fall under the meaning of the term "clamp" as claimed.

10. Claims 1-2 and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Villa (US Patent No. 5,937,881).

Villa teaches an umbrella assembly comprising: at least one substantially vertical pole (47), at least one cantilever pole (37), and at least one umbrella head (141); the umbrella head having a shaft portion (131), ribs (121) extending outwardly from the shaft portion to support a cover (19), a runner (149) slidably mounted on the shaft portion (131), and stretchers (125) extending radially from the said runner to the ribs, and a clamp (27) being disposed at a top (25)

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of the shaft portion for releasably attaching the umbrella head to the cantilever pole (37), and the cantilever pole (37) and vertical pole (47) being clamped together by a clamp (43).

In claims 14-15, Villa teaches the umbrella head can be placed upside-down, and with the head being inverted (by rotation of the clamp (27) upside-down).

11. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Vennik (US Patent No. 5,116,258).

Vennik teaches an umbrella assembly comprising: at least one substantially vertical pole (15), at least two cantilever poles (14), and at least two umbrella head; the umbrella head having a shaft portion (1), ribs (2) extending outwardly from the shaft portion to support a cover (7), a runner (11) slidably mounted on the shaft portion (1), and stretchers (9) extending radially from the said runner to the ribs, and a clamp (13) being disposed at a top of the shaft portion (1) for releasably attaching the umbrella head to the cantilever pole (14), and the cantilever poles (14) being clamped to the vertical pole (15) by a clamp, and the umbrella heads each clamped on the cantilever in difference direction respectively (see Fig. 5).

12. Claims 6-7, 11-12, are rejected under 35 U.S.C. 102(b) as being anticipated by McFarlane (GB Patent No.2,045,338).

McFarlane teaches a clamp device for holding two elongate members (9, 21) at a preset angle, the device comprising: two clamp portions (1, 13) each having co-operating engaging surfaces (11, 14) with interlocking elements such as a plurality of teeth(11,14), each clamp portion having an axial bore (12, 15)extending perpendicularly to the engaging surfaces and a

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receiving portion (7, 20) being integral tubular parts for holding one of the elongate members; and an elongate stem or rod (16) passing through the bore of the clamp portions and attached at one end to a lever or handle (17) for rotating the stem in the bore, and another end having a flange (a head of the rod) for holding the clamp portions together, and a cam that includes a track (7) and teeth acting between the stem and at least one of the clamp portions so that the clamp portions (1,13) can be moved from a position in which the engaging surfaces are not engaged to a position in which the engaging surfaces co-operatively engage by rotating and tightening the lever in the bore in one direction by approximately 90° or full 360°, and the clamp is suitable for allowing a full 360° range of preset angles between the elongate members held therein.

In regard to claim 13, McFarlane disclose the claim is used for clamping an umbrella to a device. Therefore, McFarlane is considered to teach an umbrella assembly having elements being connected together by the clamp as discussed set above.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glatz et al. (US Patent No. 4,586,525) or Villa (US Patent No. 5,937,881) as applied to claim 1-2 above.

Although Glatz et al. or Villa does not directly define the umbrella assembly comprising at least two poles for supporting the umbrella heads, it would have been obvious matter or design

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choice to one ordinary skill in the art to provide more than one set of umbrella assembly as claimed invention as very well known features in order to cover more than one areas.

15. Claims 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over McFarlane (GB Patent No.2,045,338).

Although McFarlane does not explicitly define an umbrella, McFarlane teaches a clamp as explained and applied above rejection, can be used to clamp an umbrella to a device. Therefore, McFarlane is considered to teach an umbrella assembly having elements being connected together by the clamp as discussed set above. And, it would have been obvious to one ordinary skill in the art to provide a kit of a general umbrella including poles, a frame, and having clamp devices of as taught by McFarlane to clamp elements of umbrellas together for allowing the elements of umbrellas can be placed in a preset angle as desired.

Allowable Subject Matter

16. Claims 8-9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Haynes '619, Haynes '418, Clapper '778, Sears, Jr. '723, Eichling et al. '675, Stromeyer '081 teach various umbrellas having an umbrella frame being removably attached to a

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cantilever poles by a clamp as similar to the claimed invention. Koehn '665 teaches an umbrella having a plurality of cantilevers and umbrella heads as similar to the claimed invention.

Riggs'434 teach an umbrella is "inverted". Pranke '751 teaches a clamp device for clamping an umbrella to a stand post as similar to the claimed invention.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Winnie Yip/
Primary Examiner,
Art Unit 3636

wy
March 24, 2009